

EDWIN K. PRATHER (Cal. Bar No. 190536)
 SYBIL L. RENICK (Cal. Bar No. 213149)
 PRATHER LAW OFFICES
 245 Fifth Street, Suite 103
 San Francisco, California 94103
 Telephone: 415-881-7774
 Email: Edwin@pratherlawoffices.com
 Email: Sybil@pratherlawoffices.com

Attorneys for Defendants
 LONG YING INTERNATIONAL, INC. and
 DAVID M. HO

UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA
 OAKLAND DIVISION

MARIA DE LA LUZ PEREZ BAUTISTA,
 LUZ PEREZ BAUTISTA and SALVADORA
 CORREA, on behalf of themselves and all
 others similarly situated,

Plaintiffs,

v.

JUUL LABS, INC. COALITION FOR
 REASONABLE VAPING REGULATION,
 LONG YING INTERNATIONAL, INC.,
 DAVID M. HO, and DOES 1-10 inclusive,

Defendants.

Case No. 4:20-cv-01613

**NOTICE OF MOTION AND MOTION TO
 COMPEL ARBITRATION AND STAY
 PROCEEDINGS BY DEFENDANTS LONG
 YING INTERNATIONAL, INC. AND
 DAVID M. HO; MEMORANDUM OF
 POINTS AND AUTHORITIES**

Filed Concurrently Herewith: Declaration of
 David M. Ho; [Proposed] Order

Hon. Haywood S. Gilliam, Jr.

Action Filed: March 4, 2020

Trial Date: None Set

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE THAT Defendants Long Ying International, Inc. and David M. Ho (collectively “Defendants”) will and do move this Court for an order compelling arbitration of each of Plaintiffs’ claims on an individual basis and staying proceedings in this Court. Pursuant to the Court’s General Orders Nos. 72 and 73, and Judge Gilliam’s Scheduling Notes, Defendants submit this motion on the papers without noticing a hearing date.

This motion is brought on the grounds that Plaintiffs’ claims against Defendants are subject to valid and enforceable arbitration agreements that require each of them to arbitrate their claims on an individual basis only.

Defendants’ motion is based on this Notice of Motion and Motion, the accompanying Memorandum of Points and Authorities, the concurrently filed Declaration of David M. Ho, and any other matters of which the Court may take judicial notice, other documents on file in this action, and any oral argument of counsel.

TABLE OF CONTENTS

1	MEMORANDUM OF POINTS AND AUTHORITIES.....	1
2		
3	I. INTRODUCTION.....	1
4	II. STATEMENT OF FACTS.....	1
5	A. Plaintiffs Agreed to Work on the “Yes on C Campaign” as Independent	
6	Contractors Under an Agreement Requiring Arbitration	1
7	B. Plaintiffs Filed This Lawsuit in Contravention of Their Agreement to	
8	Arbitrate the Disputes.....	3
9	III. ARGUMENT.....	4
10	A. The Federal Arbitration Act Mandates Arbitration of Plaintiffs’ Claims.	4
11	B. Plaintiffs Agreed to Arbitrate Any and All Disputes Arising Out of or Related	
12	to Work on the Yes on C Campaign.....	5
13	1. The Arbitration Agreements are Valid and Enforceable	6
14	2. Plaintiffs’ Claims Are Covered by the Arbitration Provision	7
15	C. Plaintiffs’ Claims Must Proceed to Arbitration Individually	7
16	D. The Matter Must Be Stayed While Arbitration Proceeds.....	8
17	IV. CONCLUSION	8
18		
19		
20		
21		
22		
23		
24		
25		
26		
27		
28		

TABLE OF AUTHORITIES**Page(s)****FEDERAL CASES**

<i>Allied-Bruce Terminix Cos. v. Dobson</i> , 513 U.S. 265 (1995)	5
<i>AT&T Mobility, LLC v. Concepcion</i> , 563 U.S. 333 (2011)	4, 8
<i>AT&T Technologies, Inc. v. Commc'n Workers of Am.</i> , 475 U.S. 643 (1986)	4, 7
<i>Catamaran Corp. v. Towncrest Pharmacy</i> , 864 F.3d 966 (8th Cir. 2017)	7
<i>Chassen v. Fid. Nat. Fin., Inc.</i> , No. CIV.A. 09-291 PGS, 2014 WL 202763 (D.N.J. Jan. 17, 2014)	7
<i>Chiron Corp. v. Ortho Diagnostic Sys., Inc.</i> , 207 F.3d 1126 (9th Cir. 2000)	5
<i>Citizens Bank v. Alafabco, Inc.</i> , 539 U.S. 52 (2003)	5
<i>Epic Sys. Corp. v. Lewis</i> , 138 S. Ct. 1612 (2018)	5
<i>First Options of Chicago v. Kaplan</i> , 514 U.S. 938 (1995)	6
<i>Gilmer v. Interstate/Johnson Lane Corp.</i> , 500 U.S. 20 (1991)	4
<i>Lamps Plus, Inc. v. Varela</i> , 139 S. Ct. 1407	8
<i>Moses H. Cone Mem'l Hosp. v. Mercury Constr. Corp.</i> , 460 U.S. 1 (1983)	4, 6
<i>Opalinski v. Robert Half Int'l Inc.</i> , 761 F.3d 326 (3d Cir. 2014)	7
<i>Pacificare Health Sys., Inc. v. Book</i> , 538 U.S. 401 (2003)	5
<i>Perry v. Thomas</i> , 482 U.S. 483 (1987)	4
<i>Reed Elsevier, Inc. ex rel. LexisNexis Div. v. Crockett</i> , 734 F.3d 594 (6th Cir. 2013)	7
<i>Stolt-Nielsen S.A. v. AnimalFeeds Int'l Corp.</i> , 559 U.S. 662 (2010)	8

STATE CASES

<i>Giuliano v. Inland Empire Personnel Inc.</i> , 149 Cal. App. 4th 1276 (2007)	5
<i>Mercury Ins. Grp. v. Super. Ct.</i> , 19 Cal.4th 332 (1988)	4
<i>Metalclad Corp. v. Ventana Envtl. Org. P'ship</i> , 109 Cal. App. 4th 1705 (2003)	6
<i>Shepard v. Edward Mackay Enters., Inc.</i> , 148 Cal. App. 4th 1092 (2007)	5

FEDERAL: STATUTES, RULES, REGULATIONS, CONSTITUTIONAL PROVISIONS

9 U.S.C. § 2	4
9 U.S.C. § 3	8
9 U.S.C. § 4	4
29 U.S.C. § 203(s)(1)(A)	5
Federal Arbitration Act.....	passim
Fair Labor Standards Act.....	3, 5

STATE: STATUTES, RULES, REGULATIONS, CONSTITUTIONAL PROVISIONS

Cal. Civ. Code § 1550	6
Cal. Civ. Code § 1556	6
Cal. Labor Code §§ 201, 203.....	3
Cal. Labor Code § 226.....	3
Cal. Labor Code §§ 226.7, 512.....	3
Cal. Labor Code §§ 510, 1194.....	3
Cal. Labor Code §§ 1194, 1194.2.....	3
Cal. Labor Code § 2802.....	3
S.F. Admin. Code § 12R.....	3
Cal. Bus. & Prof. Code § 17200, et seq.....	3

MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

Plaintiffs' claims are subject to arbitration agreements. Each of the named Plaintiffs entered into Independent Contractor Agreements with Defendant Long Ying International, Inc. ("Long Ying") that contain valid and enforceable arbitration provisions. Plaintiffs claim that Defendants misclassified them and other workers as independent contractors, and purport to bring a class action lawsuit. But Plaintiffs' claims arise out of the Independent Contractor Agreements, and disputes over the terms of the Agreements are required to be arbitrated on an individualized basis. Because Plaintiffs and Long Ying agreed to submit disputes arising out of the Agreements to arbitration, and did not agree to class-wide arbitration, the Court must compel Plaintiffs to arbitrate their claims on an individual basis and stay this action while arbitration proceeds.

II. STATEMENT OF FACTS

A. Plaintiffs Agreed to Work on the "Yes on C Campaign" as Independent Contractors Under an Agreement Requiring Arbitration

On June 25, 2019, San Francisco's Board of Supervisors banned the sale and distribution of e-cigarettes and vaping products in San Francisco. On July 10, 2019, the San Francisco Department of Elections certified a ballot measure (Proposition C) for the 2019 general election that would repeal the ban passed by the Board of Supervisors. Ho Decl. ¶ 2.

The Coalition for Reasonable Vaping Regulation ("CRVR") is a political committee and advocacy organization established and incorporated under California law to "advocat[e] for the enforcement of strong and coherent laws, regulations and policies which will prevent the use of e-cigarettes and other tobacco products by youth under the age of 21, while allowing adults the choice to continue purchasing these products in brick and mortar stores and online." Ho Decl. ¶ 3, Exh. D.

CRVR retained Long Ying, a San Francisco-based strategic consultancy company, to provide campaign consulting and field management services in support of the Yes on C Campaign. David M. Ho, the Chief Executive Officer of Long Ying International, Inc., is a political consultant and registered lobbyist. Mr. Ho was also retained by CRVR as an independent contractor to provide field campaign consulting services. Ho Decl. ¶ 2.

Each of the named Plaintiffs entered into Independent Contractor Agreements with Long Ying under which Plaintiffs worked for the Yes on C Campaign as phone bank callers, door-to-door canvassers, and in the case of Plaintiff Luz Perez Bautista, also as an administrative assistant between August and October 2019. Compl. ¶¶ 9-11. Plaintiffs admit that each signed an agreement entitled “Independent Contractor Agreement” with Long Ying. Compl. ¶¶ 25-26.

- Plaintiff Maria de la Luz Perez Bautista signed the Independent Contractor Agreement with Long Ying on August 14, 2019. Ho Decl. ¶ 4, Exh. A.

- Plaintiff Luz Perez Bautista signed the Independent Contractor Agreement with Long Ying on August 16, 2019. Ho Decl. ¶ 4, Exh. B.

- Plaintiff Salvadora Correa signed the Independent Contractor Agreement with Long Ying on August 16, 2019. Ho Decl. ¶ 4, Exh. C.

The Independent Contractor Agreements were entered into between Plaintiffs and Long Ying for the stated purpose of providing services for CRVR. Ho Decl. ¶ 5, Exhs. A-C. Long Ying’s Chief Executive Officer, Mr. Ho, signed the contracts on behalf of Long Ying. Compl. ¶ 25; Ho Decl. ¶ 4.

The Independent Contractor Agreements contain the following arbitration clause:

All disputes over the terms of this Agreement not resolved in a reasonable time by the parties shall be submitted to mediation before a mutually agreed-upon mediator, with the mediator’s costs borne equally by the parties. If the mediation is unsuccessful, then the dispute shall be resolved by arbitration before a mutually agreed-upon arbitrator, which shall be binding on the parties, with the prevailing party in the arbitration entitled to recover reasonable attorneys’ fees and costs from the losing party. Notwithstanding the foregoing, either party may pursue resolution of a dispute over this Agreement via small claims court.

Ho Decl. ¶¶ 4, 6, Exhs. A-C.

Plaintiffs Maria de la Luz Perez Bautista and Luz Perez Bautista admit they signed the Independent Contractor Agreements as part of the hiring process before they began work on the Campaign. Compl. ¶ 25. Plaintiff Salvadora Correa admits she was explicitly told by a Campaign administrator that she was being hired as an independent contractor and that her pay would be reflected on a 1099 tax form. Compl. ¶ 26. Further, Plaintiffs admit they were paid an hourly rate of

1 \$25 for certain work on the Campaign, and that workers who used their personal cars during
2 canvassing were reimbursed an additional amount per shift. Compl. ¶¶ 34, 42.

3 **B. Plaintiffs Filed This Lawsuit in Contravention of Their Agreement to Arbitrate**
4 **the Disputes**

5 Despite the plain language of the Independent Contractor Agreements, on March 4, 2020,
6 Plaintiffs Maria Perez Bautista, Luz Perez Bautista, and Salvadora Correa filed a putative class
7 action complaint against Defendants JUUL Labs, Inc., CRVR, Long Ying, Mr. Ho, and Does 1-10.
8 Plaintiffs never attempted to mediate or arbitrate their claims.

9 Specifically, Plaintiffs allege that the Defendants are liable for: (1) Failure to Pay Wages
10 Owed at Separation, Cal. Labor Code §§ 201, 203; (2) Failure to Furnish Accurate Wage Statements,
11 Cal. Labor Code § 226; (3) Failure to Pay Minimum Wages Under California Law, Cal. Labor Code
12 §§ 1194, 1194.2; (4) Failure to Pay San Francisco Minimum Wage, S.F. Admin. Code § 12R;
13 (5) Failure to Pay Overtime Wages, Cal. Labor Code §§ 510, 1194; (6) Failure to Reimburse
14 Business Expenses, Cal. Labor Code § 2802; (7) Failure to Provide Meal Periods, Cal. Labor Code
15 §§ 226.7, 512; (8) Violations of Unfair Competition Law, Cal. Bus. & Prof. Code § 17200, et seq.;
16 and (9) Failure to Pay Overtime Wages, FLSA, 29 U.S.C. § 207.

17 Plaintiffs seek to represent a class of “all individuals who were hired by Long Ying
18 International, Inc. to perform phone banking, canvassing and/or administrative tasks for the Yes on
19 C Campaign and did perform such work at any time during the period between July 2019 and
20 October 2019.” Compl. ¶ 54.

21 Plaintiffs also propose the following two subclasses:

22 (a) “[A]ll Campaign Workers who performed both canvassing and phone banking
23 on a single day, and to perform such work were required to work at or out of
24 multiple offices for the yes on C Campaign during the course of a single
25 calendar day.” Compl. ¶ 55.

26 (b) “[A]ll individuals who were hired by Long Ying International, Inc. to perform
27 phone banking, canvassing and/or administrative tasks for the Yes on C
28 Campaign, and performed both canvassing and phone banking, working at or

1 out of multiple Campaign offices during the course of a single calendar day at
 2 any time during the period between July 2019 and October 2019.” Compl. ¶
 3 61.

4 **III. ARGUMENT**

5 The Court should hold Plaintiffs to their contractual obligations by compelling them to
 6 arbitrate their claims on an individual basis. See 9 U.S.C. § 4 (requiring courts to compel arbitration
 7 “in accordance with the terms of the agreement”). This dispute is governed by the Federal
 8 Arbitration Act (“FAA”), which applies to arbitration provisions in contracts, like the Independent
 9 Contractor Agreement, that “evidenc[e] a transaction involving commerce.” Id. §2.

10 **A. The Federal Arbitration Act Mandates Arbitration of Plaintiffs’ Claims.**

11 As affirmed by the United States Supreme Court in *AT&T Mobility, LLC v. Concepcion*, 563
 12 U.S. 333, 339 (2011), the FAA declares a liberal policy favoring the enforcement of arbitration
 13 policies, stating: “A written provision in ... a contract evidencing a transaction involving commerce
 14 to settle by arbitration a controversy thereafter arising out such contract or transaction ... shall be
 15 valid, irrevocable, and enforceable, save upon such grounds as exist at law or in equity for the
 16 revocation of any contract.” 9 U.S.C. § 2. The FAA is designed “to move the parties to an
 17 arbitrable dispute out of court and into arbitration as quickly and easily as possible,” and courts must
 18 resolve “any doubts concerning the scope of arbitrable issues ... in favor of arbitration.” *Moses H.*
 19 *Cone Mem’l Hosp. v. Mercury Constr. Corp.*, 460 U.S. 1, 4 (1983); *see also, Gilmer v.*
 20 *Interstate/Johnson Lane Corp.*, 500 U.S. 20, 31 (1991). The FAA does not simply place arbitration
 21 agreements on equal footing with other contracts; rather, it “*favor[s]* arbitration agreements.” *Perry*
 22 *v. Thomas*, 482 U.S. 483, 489 (1987) (emphasis added). California similarly recognizes a “strong
 23 public policy” favoring arbitration. *Mercury Ins. Grp. v. Super. Ct.*, 19 Cal.4th 332, 342 (1988).

24 “Where [a] contract contains an arbitration clause, there is a presumption of arbitrability” and
 25 any “doubts should be resolved in favor of coverage.” *AT&T Technologies, Inc. v. Commc’n*
 26 *Workers of Am.*, 475 U.S. 643, 650 (1986).

27 The arbitration provision at issue in this case is indisputably governed by the FAA. The
 28 FAA applies to contracts “involving commerce.” 9 U.S.C. § 2; *see also Gilmer v. Interstate/Johnson*

1 *Lane Corp.*, 500 U.S. 20, 24-26 (1991). Courts “must broadly construe the phrase, ‘evidencing a
 2 transaction involving commerce,’ because the FAA ‘embodies Congress’ intent to provide for the
 3 enforcement of arbitration agreements within the full reach of the Commerce Clause.” *Giuliano v.*
 4 *Inland Empire Personnel Inc.*, 149 Cal. App. 4th 1276, 1286 (2007) (internal citation omitted). This
 5 is true “even if the parties did not contemplate an interstate commerce connection.” *Allied-Bruce*
 6 *Terminix Cos. v. Dobson*, 513 U.S. 265, 281 (1995); *see also*, *Citizens Bank v. Alafabco, Inc.*, 539
 7 U.S. 52, 56 (2003) (“[T]he FAA encompasses a wider range of transactions than those actually ‘in
 8 commerce’ – that is, ‘within the flow of interstate commerce’”); *Shepard v. Edward Mackay Enters.,*
 9 *Inc.*, 148 Cal. App. 4th 1092, 1097 (2007) (“The [U.S. Supreme Court] adopted ... a ‘commerce in
 10 fact’ interpretation, meaning that the transaction must merely turn out, in fact, to have involved
 11 interstate commerce.”).

12 Plaintiffs admit that their work on the Campaign entailed the use of interstate commerce –
 13 including e-mail, phone and internet communications. *See, e.g.*, Compl. ¶¶ 31, 33 (detailing
 14 Plaintiffs’ use of e-mails, telephones, and computers); Ho. Decl. ¶ 2 (“Long Ying’s business is
 15 directly involved in interstate commerce”); *Giuliano, supra*, 149 Cal. App. 4th at 1287 (affirming
 16 interstate nature of employment where Plaintiff admits instate nature of business in complaint).
 17 Plaintiffs also assert claims under the Fair Labor Standards Act, which applies only to businesses
 18 engaged in interstate commerce. *See* 29 U.S.C. § 203(s)(1)(A).

19 **B. Plaintiffs Agreed to Arbitrate Any and All Disputes Arising Out of or Related to**
 20 **Work on the Yes on C Campaign**

21 The FAA “direct[s] courts to ... treat arbitration agreements as valid, irrevocable, and
 22 enforceable” and “establishes a liberal policy favoring agreements.” *Epic Sys. Corp. v. Lewis*, 138
 23 S. Ct. 1612, 1621 (2018). Accordingly, in determining whether to compel arbitration, only two
 24 “gateway” issues need to be decided: (1) whether there exists a valid agreement to arbitrate between
 25 the parties; and (2) whether the agreement covers the dispute at issue. *Pacificare Health Sys., Inc. v.*
 26 *Book*, 538 U.S. 401, 407, n.2 (2003); *Chiron Corp. v. Ortho Diagnostic Sys., Inc.*, 207 F.3d 1126,
 27 1130 (9th Cir. 2000). The Independent Contractor Agreement signed by each Plaintiff checks both
 28 boxes. To the extent that any doubt remains as to the proper interpretation of the Agreement on any

1 issue related to arbitrability, the FAA “establishes that ... [it] should be resolved in favor of
2 arbitration.” *Moses H. Cone*, 460 U.S. at 24-25.

3 **1. The Arbitration Agreements are Valid and Enforceable**

4 Plaintiffs do not allege any facts that call into dispute the validity of the Independent
5 Contractor Agreements they entered, nor do they dispute the fact that these Agreements contain an
6 arbitration provision. To the contrary, Plaintiffs allege the existence and validity of these contracts,
7 and their claims arise out of the contracts. Compl. ¶ 25.

8 General state law contract principles determine whether the parties have agreed to arbitrate.
9 *First Options of Chicago v. Kaplan*, 514 U.S. 938, 944 (1995); *Metalclad Corp. v. Ventana Envtl.*
10 *Org. P’ship*, 109 Cal. App. 4th 1705, 1712 (2003). The requirements for contract validity under
11 California law are clearly met here: (1) the parties are capable of contracting; (2) there was mutual
12 consent; (3) the contract had a lawful object; and (4) the contract was supported by sufficient cause
13 or consideration. Cal. Civ. Code § 1550. Plaintiffs do not dispute the existence of any of those
14 requirements.

15 There is no dispute that the parties are capable of contracting. *See* Cal. Civ. Code § 1556
16 (“All persons are capable of contracting, except minors, persons of unsound mind, and persons
17 deprived of civil rights.”). Plaintiffs do not allege a lack of mutual consent to the terms of the
18 contract. On the contrary, Plaintiffs Maria De La Perez Bautista and Luz Perez Bautista admit that
19 they signed the Independent Contractor Agreements as part of the hiring process before they began
20 work on the Yes on C Campaign. Compl. ¶ 25. Similarly, Plaintiff Salvadora Correa admits she
21 was explicitly told by a Campaign administrator that she was being hired as an independent
22 contractor and that her pay would be reflected on a 1099 tax form. Compl. ¶ 26. Plaintiffs admit
23 that they were hired to support the Yes on C Campaign, and do not contest the legitimacy of the
24 Campaign or the lawfulness of their work in support of it. Compl. ¶¶ 21-26. And Plaintiffs admit
25 they received hourly financial compensation in consideration for work completed pursuant to their
26 Independent Contractor Agreements. Compl. ¶ 34.

27 All requirements for valid contract formation were satisfied and Plaintiffs do not – and
28 cannot – allege otherwise.

2. Plaintiffs' Claims Are Covered by the Arbitration Provision

Under the FAA, the Court must compel arbitration if the claims asserted fall within the scope of a valid arbitration agreement. *AT&T Techs., Inc., supra*, 475 U.S. at 650 (“Where a contract contains an arbitration clause, there is a presumption of arbitrability [and] ‘[d]oubts should be resolved in favor of coverage.’”).

Plaintiffs’ claims fall squarely within the scope of the Independent Contractor Agreements. The parties agreed that “[a]ll disputes over the terms of this Agreement” should be submitted to mediation or, in the alternative, to “be resolve by arbitration before a mutually agreed-upon arbitrator, which shall be binding on the parties[.]” The claims at issue here are a dispute between the parties to the agreement arising out of the agreement itself. Thus, there is no reasonable dispute that Plaintiffs agreed to arbitrate their claims. Because there is a valid agreement to arbitrate and the dispute falls within the scope of the agreement, the FAA requires that the Court order the parties to arbitrate the dispute.

C. Plaintiffs’ Claims Must Proceed to Arbitration Individually

Plaintiffs should be compelled to arbitrate their claims on an individual basis, not a class-wide basis because there is no contractual basis for concluding that parties agreed to submit to class arbitration. “The question [of] whether an arbitration agreement permits classwide arbitration is a gateway matter, which is reserved ‘for judicial determination unless the parties clearly and unmistakably provide otherwise.’” *Reed Elsevier, Inc. ex rel. LexisNexis Div. v. Crockett*, 734 F.3d 594, 599 (6th Cir. 2013).

Here, the arbitration agreement is silent as to whether an arbitrator should determine the question of class arbitration; thus, such a decision should be left to the courts, as it decisively impacts whose claims the parties must arbitrate and thereby fundamentally affects both the nature and scope of the parties’ arbitration agreement. *Id.*; see also, *Opalinski v. Robert Half Int’l Inc.*, 761 F.3d 326, 333 (3d Cir. 2014); *Catamaran Corp. v. Towncrest Pharmacy*, 864 F.3d 966 (8th Cir. 2017); *Chassen v. Fid. Nat. Fin., Inc.*, No. CIV.A. 09-291 PGS, 2014 WL 202763 (D.N.J. Jan. 17, 2014).

1 In *Stolt-Nielsen S.A. v. AnimalFeeds Int'l Corp.*, 559 U.S. 662 (2010), the Supreme Court
 2 held that “a party may not be compelled under the FAA to submit to class arbitration unless there is
 3 a contractual basis for concluding that the party agreed to do so.” *Id.* at 684. The Supreme Court
 4 recently reaffirmed this rule, holding that, under the FAA, courts cannot compel arbitration on a
 5 class-wide where the arbitration provision in question is ambiguous (let alone silent) on the issue.
 6 *Lamps Plus, Inc. v. Varela*, 139 S. Ct. 1407, 1415, 1418-19 (courts may not compel parties to arbitrate
 7 in any manner that is “markedly different from ... traditional individualized arbitration” and that
 8 “interferes with [the] fundamental attributes of arbitration” – e.g., informality, speed, and cost-
 9 efficiency – unless the parties expressly agreed to do so).

10 Far from agreeing to class treatment or class arbitration, the Independent Contractor
 11 Agreements make no mention of class representation, and instead speak only to available avenues
 12 for individual workers to bring disputes. Thus, it cannot be said that any party agreed to submit to
 13 class arbitration. Rather, the parties only agreed to submit to individualized arbitration for disputes
 14 arising out of the Independent Contractor Agreements.

15 The Court should therefore require Plaintiffs to arbitrate their claims on an individual basis
 16 pursuant to the Independent Contractor Agreements. To allow otherwise would “undermine the
 17 central benefits of arbitration,” in contravention of the letter of the Agreements and the spirit of the
 18 FAA. *Id.* at 1417.

19 **D. The Matter Must Be Stayed While Arbitration Proceeds**

20 Because Plaintiffs’ claims are subject to arbitration, this case must be stayed pending
 21 conclusion of arbitration. *See* 9 U.S.C. § 3 (providing that the court “shall” stay the action “until
 22 such arbitration has been had in accordance with the terms of the agreement”); *see also, Concepcion*,
 23 563 U.S. at 344 (FAA “requires courts to stay litigation of arbitral claims pending arbitration of
 24 those claims ‘in accordance with the terms of the agreement.’”).

25 **IV. CONCLUSION**

26 Plaintiffs each entered into a valid and binding agreement to arbitrate all disputes arising out
 27 of their work on the Yes on C Campaign. All of Plaintiffs’ claims are governed by these arbitration
 28 agreements. The arbitration agreements do not provide any contractual basis for Plaintiffs to

1 proceed to arbitration on a class-wide basis. The Court should therefore grant Defendants' motion to
2 compel arbitration on an individualized basis and stay the proceedings in this Court.

3
4 Dated: April 30, 2020

PRATHER LAW OFFICES

5
6
7 By: /s/ Edwin K. Prather
EDWIN K. PRATHER

8 Attorneys for Defendants
9 LONG YING INTERNATIONAL, INC. and
10 DAVID M. HO
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28